

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NAMEL NORRIS,	:	
	:	
Plaintiff,	:	
	:	21-cv-7823 (VSB)
-against-	:	
	:	<u>ORDER</u>
ROTANA SMOKE SHOP CORP., et al.,	:	
	:	
Defendants.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:


Plaintiff filed this action on September 18, 2021 against Defendants Rotana Smoke Shop Corp., French Dinner LLC., and 188 Orchard Street Corp. (Doc. 1.) Defendant 188 Orchard Street Corp. executed a waiver of service on October 18, 2021, (Doc. 12), and answered on December 17, 2021, adding a cross-claim against Defendant Rotana Smoke Shop Corp., (Doc. 16). On December 17, 2021, Plaintiff filed affidavits of service for Defendants Rotana Smoke Shop Corp. and French Dinner LLC. (Docs. 17 & 18.) The deadline for Defendants Rotana Smoke Shop Corp. and French Dinner LLC to respond to Plaintiff's complaint was November 12, 2021. (*See* Docs. 17 & 18.) On December 20, 2021, I directed Plaintiff to seek default judgment against Defendants Rotana Smoke Shop Corp. and French Dinner LLC by no later than January 7, 2022, or risk dismissal for failure to prosecute. (*See* Doc. 19.) On December 22, 2021, Defendant French Dinner LLC appeared in this action, (Doc. 20), and after two extensions, (Docs. 23 & 25), French Dinner LLC filed an answer, (Doc. 27). On January 7, 2022, instead of seeking default judgment against Defendant Rotana Smoke Shop Corp., Plaintiff filed a status report representing that "Defendant is sending a courier to the subject facility for [Defendant Rotana Smoke Shop Corp.] in order to solicit their response to this matter" and that "Plaintiff

does not intend to seek a default judgment as Plaintiff anticipates their appearance.” (Doc. 26.) However, to date, Defendant Rotana Smoke Shop Corp. has still failed to appear or respond to the complaint.

Accordingly, if Plaintiff and Defendant 188 Orchard Street Corp. intend to seek a default judgment against Defendant Rotana Smoke Shop Corp., they are directed to do so in accordance with Rule 4(H) of my Individual Rules and Practices in Civil Cases by no later than January 25, 2022. If Plaintiff and Defendant 188 Orchard Street Corp. fail to do so or otherwise demonstrate that they intend to prosecute this litigation, I may dismiss Plaintiff’s claims against Defendant Rotana Smoke Shop Corp., as well as Defendant 188 Orchard Street Corp.’s cross-claims against Defendant Rotana Smoke Shop Corp., for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

SO ORDERED.

Dated: January 18, 2022
New York, New York


VERNON S. BRODERICK
United States District Judge